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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

In re:	)	MISC. NO. 04-00193 DAE BMK
)	
THIRTY-NINE THOUSAND FOUR	)	SEVENTH STIPULATED MOTION TO
HUNDRED DOLLARS (\$39,400.00)	)	EXTEND TIME TO FILE COMPLAINT
IN UNITED STATES CURRENCY	)	FOR FORFEITURE AND/OR TO
	)	OBTAI INDICTMENT ALLEGING
	)	FORFEITURE
)	

SEVENTH STIPULATED MOTION TO EXTEND TIME TO
FILE COMPLAINT FOR FORFEITURE
AND/OR TO OBTAIN INDICTMENT ALLEGING FORFEITURE

Pursuant to 18 U.S.C. § 983(a)(3)(A), United States of America ("Government") and Marc Goto ("Claimant"), by and through their respective undersigned attorneys, jointly move the Court to extend the time within which the United States is required to file a civil forfeiture complaint and/or to obtain an indictment alleging forfeiture against the above-captioned thirty-nine thousand four hundred dollars (\$39,400.00) in United States currency (hereinafter the "Subject Currency") from February 22,

2006, up to and including May 23, 2006. The parties hereby agree and stipulate to the following:

1. On April 12, 2004, the Drug Enforcement Agency ("DEA") seized the Subject Currency which was contained in a Federal Express parcel from MailBoxes, Etc., located at 758 Kapahulu Avenue, Honolulu, Hawaii.

2. Written notices of the United States' intent to administratively forfeit the Subject Currency, were sent by the DEA to all known interested parties, including Claimant, as required by 18 U.S.C. § 983(a)(1)(A).

3. The only person to file a claim to the Subject Currency was Claimant. Claimant filed his claim on or about June 29, 2004.

4. No other claims have been filed or received, and the time has expired for any person to file a claim to the Subject Currency under 18 U.S.C. § 983(a)(2)(A)-(E).

5. 18 U.S.C. § 983(a)(3)(A) provides as follows:

(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(Emphasis added).

6. The United States currently is required to file a civil forfeiture complaint and/or a indictment alleging

forfeiture against the Subject Currency by or before February 22, 2006.

7. The parties have are continuing negotiations relating to Claimant's claim to the Subject Currency. The parties need additional time to conduct informal discovery and to investigate Claimant's claim that the Subject Currency constitutes legitimately earned income prior to the government filing a forfeiture complaint or obtaining an indictment alleging forfeiture in order to avoid the unnecessary expenditure of funds and resources by the parties and the Court. Claimant has recently provided the Government with tax returns for prior years that may prove that the Subject Currency constituted legitimately earned income. Once the Government reviews these documents, it is anticipated that settlement negotiations will begin. Accordingly, the parties requested and the Court granted several 90-day extensions of the time within which the United States is required to file the complaint for forfeiture, up to and including February 22, 2006. The parties are currently requesting a further 90-day extension of the time within which the United States is required to file the complaint for forfeiture, up to and including May 23, 2006.

8. This motion is made in good faith and is not made to delay the action, or for any other improper purpose.

9. As Section 983(a)(3)(A) provides that an order extending the 90-day period for filing a complaint or obtaining an indictment must be entered by the Court, even if the parties

have agreed to such extension, the parties respectfully request that the Court issue an order extending the time for filing the complaint or obtaining the indictment against the Subject Currency for 90 days, up to and including May 23, 2006, to allow the parties sufficient time to complete discovery and their settlement negotiations.

10. For the Court's convenience, the parties are contemporaneously lodging a proposed Order Extending Time To File Complaint For Forfeiture And/Or To Obtain Indictment Alleging Forfeiture.

DATED: _____, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Edric M. Ching

By _____
EDRIC M. CHING
Assistant U.S. Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

/s/ Pamela O'Leary Tower

PAMELA O'LEARY TOWER
Attorney for Claimant
MARC GOTO

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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

In re:	)	MISC. NO. 04-00193 DAE BMK
)	
THIRTY-NINE THOUSAND FOUR	)	ORDER EXTENDING TIME TO FILE
HUNDRED DOLLARS (\$39,400.00)	)	COMPLAINT FOR FORFEITURE
IN UNITED STATES CURRENCY	)	UNITED STATES CURRENCY
	)	AND/OR TO OBTAIN INDICTMENT
	)	ALLEGING FORFEITURE
)	

ORDER EXTENDING TIME TO FILE COMPLAINT FOR
FORFEITURE AND/OR TO OBTAIN INDICTMENT ALLEGING FORFEITURE

This matter came before the Court on the Stipulated Motion to Extend Time to File Complaint for Forfeiture and/or to Obtain Indictment Alleging Forfeiture. Based upon the written submissions of the parties, the Court finds:

1. The United States currently is required, pursuant to 18 U.S.C. § 983(a)(3), to file a forfeiture complaint or to obtain an indictment alleging forfeiture against the above-captioned property by or before February 22, 2006;

2. The parties jointly have requested a 90-day extension of time to file the complaint and/or to obtain the

indictment, up to and including May 23, 2006, to allow the parties sufficient time to conduct discovery and complete settlement negotiations; and

3. The parties have shown good cause for the requested extension of time within which the United States is required to file the complaint or to obtain the indictment against the above-captioned property.

IT IS HEREBY ORDERED, under 18 U.S.C. § 983(a)(3)(A), that the period of time within which the United States must file a forfeiture complaint and/or obtain an indictment alleging forfeiture against the above-captioned property is extended from February 22, 2006, up to and including May 23, 2006.

DATED: Honolulu, Hawaii, February 15, 2006





David Alan Ezra
United States District Judge

In re: \$39,400.00 in United States Currency;
Misc. No. 04-00193 DAE BMK
"ORDER EXTENDING TIME TO FILE COMPLAINT FOR FORFEITURE AND/OR TO OBTAIN INDICTMENT ALLEGING FORFEITURE"